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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,841

08/21/2003

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05/20/2011

EXAMINER

LANIER, BENJAMIN E

ART UNIT

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2432

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/644,841	<b>Applicant(s)</b> MAYER ET AL.	
	<b>Examiner</b> BENJAMIN LANIER	<b>Art Unit</b> 2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 95-101 is/are pending in the application.
- 4a) Of the above claim(s) 98-101 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 95-97 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed 28 April 2011 amends claims 95 and 96. Applicant's amendment has been fully considered and entered.

### ***Response to Arguments***

2. Applicant argues, "Claim 95 has now been amended such that information contained in the data does impart functionality when employed as a computer component." This argument is not persuasive because claim 95, as now amended, does not impart functionality on the claimed content of the database as alleged by applicant. The claimed database is claimed to include "default security rules including default rules, pre distribution rules, additionally-acquired user-defined rules, and statistics of acceptable program behavior continuously learned during system operations." The specific claimed contents have not been utilized in any specific manner that imparts functionality.

3. Applicant argues, "the purpose of Jacobson is to ensure user compliance with a set of security rules, and not to protect the user against unwarranted intrusion in violation of security rules." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., protect the user against unwarranted intrusion in violation of security rules) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Election/Restrictions***

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4. This application contains claims 98-101 drawn to an invention nonelected without traverse in the reply filed on 06 April 2011. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 95 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson, U.S. Patent No. 7,689,563, in view of Luke, U.S. Patent No. 6,813,712. Referring to claim 95, Jacobson discloses a policy compliance monitor that provides network user compliance monitoring with network security policy stored in a database by monitoring network activity (Col. 5, lines 36-47), which meets the limitation of a monitoring and capturing sub-system configured to monitor activities relating to at least one communication device and to detect and to act against suspicious or dangerous activity. The policy compliance monitor is included in an

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electronic record management system that may be implemented in a server (Figure 1 & Col. 4, lines 9-20). Jacobson does not specify that the server includes an operating system. The Examiner takes OFFICIAL NOTICE that the use of operating systems in servers was well known in the art at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for the server of Jacobson to include an operating system. The database includes encrypted data (Col. 26, lines 15-21), which meets the limitation of an encrypted database in operative connection with said operating system, and storing default security rules including default rules, pre-distribution rules, additionally-acquired user-defined rules, statistics of acceptable program behavior continuously learned during system operation. The claimed content of the database has not been given patentable weight because the information represents nonfunctional descriptive material that does not impart functionality (MPEP 2106.01). The system can prevent further network communications in response to a policy violation (Col. 12, lines 16-23), which meets the limitation of said monitoring and capturing sub-system being constructed and arranged to receive data from said encrypted database, and to block activities of said computerized device in violation of said default rules. The system can also provide a warning message to the network user or a network administrator in response to a policy violation (Col. 12, lines 26-29), which meets the limitation of a user interface operatively connected to said operating system, and including means for performing warning the user of perceived dangers based on said database. The policy compliance and reporting module monitors and records user and network system activities (Col. 5, lines 53-57), which meets the limitation of wherein accesses to the encrypted database is tracked by the monitoring and capturing sub-system. Jacobson does not disclose monitoring of storage devices.

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Luke discloses monitoring hard disk activity (Col. 4, lines 15-20), which meets the limitation of monitoring activities relating to storage devices to detect and to act against suspicious or dangerous activity. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the system of Jacobson to monitor hard disk activity because excessive hard drive activity is a symptom of virus infection as taught by Luke (Col. 4, lines 15-20).

8. Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson, U.S. Patent No. 7,689,563, in view of Luke, U.S. Patent No. 6,813,712, and further in view of Townsend, U.S. Patent No. 6,374,358. Referring to claim 96, Jacobson does not disclose that the network security policy is generated based upon a questionnaire presented to a user. Townsend discloses generated security policies based upon questionnaires (Col. 3, lines 38-45), which meets the limitation of stores a log of security questions presented to users and replies thereto. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the network security policy of Jacobson to be generated based upon questionnaires in order to determine that the policy is created by appropriate personnel as suggested by Townsend (Col. 3, lines 39-41).

9. Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson, U.S. Patent No. 7,689,563, in view of Luke, U.S. Patent No. 6,813,712, and further in view of Lingafelt, U.S. Patent No. 7,013,394. Referring to claim 97, Jacobson does not disclose that the email management system stores email messages of interest. Stolfo discloses storing email messages of interest in a database as signatures (Col. 10, lines 30-33), which meets the limitation of the encrypted database further stores a log of detected suspicious activities. It would have been obvious to one of ordinary skill in the art at the time the invention was made to store email

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messages of interest in the database of Jacobson in order to provide the ability to detect malicious content in email messages as taught by Lingafelt (Col. 10, lines 30-33).

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN LANIER whose telephone number is (571)272-3805. The examiner can normally be reached on M-Th 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Benjamin E Lanier/  
Primary Examiner, Art Unit 2432